

## Overview of Judgments and Orders

### Format

1. Use the precedents posted on the Court's website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms. Ensure that you are using the correct precedent. There are three:
  - Order (Single Judge Chambers)
  - Order (Three Judges - Panel Applications)
  - Judgment (for three judges sitting on the hearing of the appeal)
2. Unless otherwise ordered, an order granting judicial interim release must be in form CRA-G. This form, along with a suggested form for an order for the restoration of an appeal, is available on the Court's website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.
3. The forms for civil matters and criminal matters are grouped separately on the website. Ensure that you use the correct one.
4. Refer to the Judgment/Order Mandatory Requirements & Check/Return form for a list of the minimum requirements that Registry staff will watch for when an Order or Judgment is filed. This form is located on the Court's website under Court of Appeal > Registry > Filing Information > Mandatory Requirements & Check/Return Forms.
5. All parties (other than a self-represented litigant in a criminal matter) who attended the application or appeal hearing must approve of the form of Order or Judgment before it can be filed.
6. For criminal matters:
  - A formal judgment is not required unless an appeal to the Supreme Court of Canada is filed, applied for or contemplated.
  - If there is a dissent in a criminal matter, the Judgment must include the name of the dissenting judge and the grounds of law upon which that judge dissents.
  - Unless otherwise directed, where the Attorney General prepares a formal order or judgment resulting from an application or appeal, and the other party is self-represented, the approval of the other party is not required.

### Costs

7. Parties should familiarize themselves with rule 14.88 and the Information Note that follows it. Unless otherwise ordered, the successful party in an appeal or an application is entitled to a costs award against the unsuccessful party. Reasons for Judgment of the Court will not make any specific direction about costs unless an exception is to be made to that presumption. Therefore, the losing party should not withhold their approval of an Order or Judgment that includes an award of costs against them in accordance with rule 14.88 for the sole reason that the Court was silent on that issue.

8. If a successful party on an application or appeal seeks an award of costs in accordance with the presumption in rule 14.88 but is unable to obtain the unsuccessful party's approval on a Bill of Costs, an Appointment for Assessment of Costs in Form 45 should be filed. (There is a precedent for this form on the Court's website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.) Applications of this nature are heard by an assessment officer. It is only when the successful party requires a specific direction as to costs or seeks an award of costs that is beyond the presumption in rule 14.88 or beyond the jurisdiction of the assessment officer that the Court is consulted. Those applications are typically heard on the basis of written materials only and are co-ordinated through the Case Management Officer. If the parties require a specific direction from the Court as to costs, the Case Management Officer should be contacted for directions no later than two months after the pronouncement of the decision.
9. A Bill of Costs cannot be filed before the Order or Judgment is filed.

### **Filing Without Approvals**

10. In accordance with rule 9.2, unless the Court otherwise orders, the successful party in an application or appeal is responsible for preparing a draft of the Order or Judgment and serving it on every party who attended the application or appeal within 10 days after it is pronounced. Within 10 days of service, each party may approve the draft or object to the draft, providing particulars of the objection. If they do neither, but all other requirements are met **and service is proved**, the Order or Judgment may be signed and entered without the necessary approvals. The Case Management Officer considers these types of applications.
11. If an application is made to a Case Management Officer to have an Order or Judgment signed and entered without the necessary approvals, the following steps must be taken:
  - An Affidavit of Service indicating the date and method of service and exhibiting a copy of the proposed Order or Judgment must be filed.
  - The filing party must confirm (preferably in the Affidavit of Service) that 10 days have elapsed since service of the Order or Judgment and neither an approval nor an objection to it has been received. It is not sufficient to simply say a party has refused to sign it.
  - If the above requirements are met, and if the proposed Order or Judgment accurately reflects the Court's decision, the Case Management Officer may direct that the Order or Judgment be filed without the required approvals. If necessary, the Case Management Officer will consult with the Court.

### **Dispute as to Contents**

12. If objections are raised and the parties cannot agree on the contents of an Order or Judgment, the parties may apply to the Court to resolve the dispute in accordance with rule 9.3. Those applications are typically heard on the basis of written materials only and are co-ordinated through the Case Management Officer. If the parties require a direction from the Court concerning the contents of an Order or Judgment, the Case Management Officer should be contacted for directions.

### **Time Limit to File**

13. Orders or Judgments must be entered within 3 months after their pronouncement. Otherwise, a fiat is required. The Case Management Officer may grant a fiat provided a satisfactory explanation is given for the delay and all parties consent to the late filing.

### **Consent Judgments**

14. Consent Judgments must be signed by three justices. However, a personal attendance may not be necessary. Instead, follow these steps:

- Contact the Case Management Officer to advise that the parties have reached a resolution and wish to enter into a Consent Judgment. This is especially important if the appeal is scheduled to be heard on a date that is less than 5 weeks away.
- Provide the Case Management Officer with a draft of the Consent Judgment before circulating it for signatures of the other parties. The Case Management Officer may make some suggestions for improvement.
- Once the Case Management Officer reviews and approves the draft, circulate the Consent Judgment to the other parties for signatures.
- Once signatures are obtained, provide the original Consent Judgment to the Case Management Officer along with a letter explaining the disposition of the appeal and the reasons for it. The letter does not have to be lengthy; it just needs to explain what is happening and why. The letter should indicate that it is a joint submission or is being sent with the consent of all parties.
- The Case Management Officer will provide the Consent Judgment and letter of explanation to either a duty judge or List Manager who will consider the matter, and if deemed appropriate, will obtain the signatures of three judges.
- Once three judges sign the Consent Judgment, it will be filed and copies provided to the filing party.

### **Consent Orders**

15. Consent orders must be signed by a judge in Chambers. Therefore, unless the matter is urgent, a personal attendance is necessary. Court of Appeal Chambers is scheduled for every Tuesday, Wednesday and Thursday at 9:30 a.m. However, because there may not be any applications scheduled on every Chambers day, it is always a good idea to call the Registry the day before, or the morning of, the day you plan to attend to ensure that there will be a courtroom open and a duty judge available.